

## **REMARKS**

### **Telephone Interview**

#### **Statement of the Substance of the Interview (MPEP713.04)**

On March 14, 2006 Examiner Melody Burch conducted a telephone interview with the Applicant's Attorney, Andrew P. Cernota, Reg. No. 52,711. The Applicant thanks the Office for this opportunity to advance the prosecution of this case. During the telephone interview, the Applicant's Attorney and the Examiner discussed the pending claims, claims 1-22. In particular, the discussion was focused on claim 1.

The Examiner articulated her positions taken in the pervious Office Actions, namely that truncated pyramids 42, 44 of the cited reference are the same as the ribs of the claimed invention, and that the sloping sides of other truncated pyramids 42, 44 formed the walls while still other truncated pyramids formed the protruding parts. The Examiner noted that as all components were joined together, their orientation and interconnection were not distinct from the claimed invention. The applicant respectfully disagreed with this analysis of the '387 reference and its comparison with the claimed invention. The Applicant's attorney explained his interpretation of the cited '378 reference and the noted the contrasts with the claims. In light of the Applicant's Attorney's comments, the Examiner acknowledged differences and suggested that further amendment to emphasize the structural relationship between elements of the claimed invention would, potentially, place the claims in condition for allowance.

The Examiner further noted that as an Advisory Action had been issued, the previous amendments and remarks of February 29, 2006 had not been entered.

### **Request for Continued Examination**

This response is submitted with the applicant's request for continued examination. The remarks of the Applicant's original response to the Final Office Action dated November 29,

2005, are resubmitted below as they remain germane to the applicant's claims in light of the Telephone Interview.

The applicant herein amends claim 1 to include the suggested clarifications discussed by the Applicant's Attorney with the Examiner. The Applicant believes that the amended claims are patentably distinct from the

### **Claim Rejections – 35 USC § 103**

The Office has quoted the statute from 35 USC 103(a), which is referenced herein. The Office has rejected claim 1-22 as being unpatentable over US Patent No. 3,933,387 to Shalloum et al. in view of other references. Applicant has carefully considered the Office rejections and respectfully submits that the amended claims, as supported by the arguments herein, are distinguishable from the cited references.

According to the MPEP §2143.01, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in either the references themselves or in the knowledge generally available to one of ordinary skill in the art."

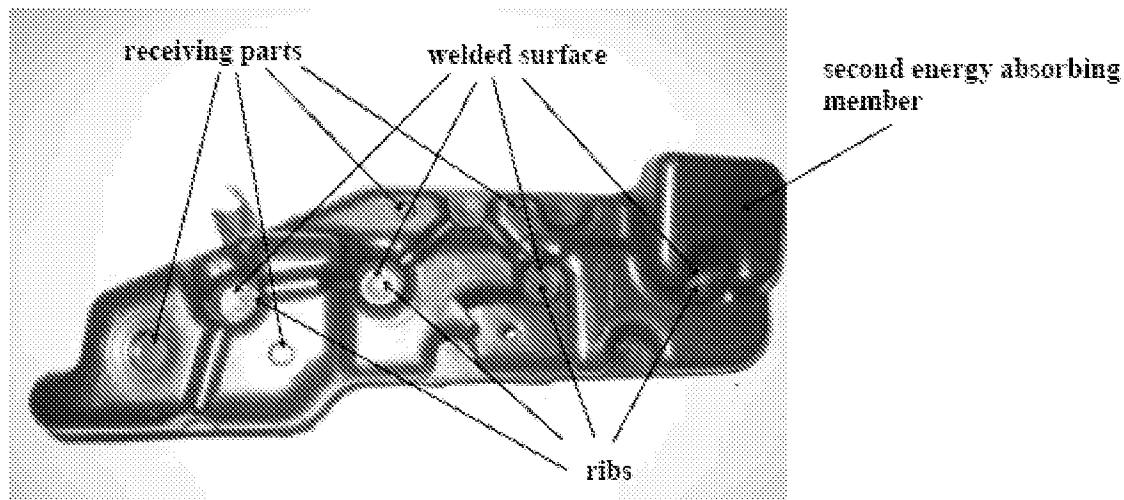
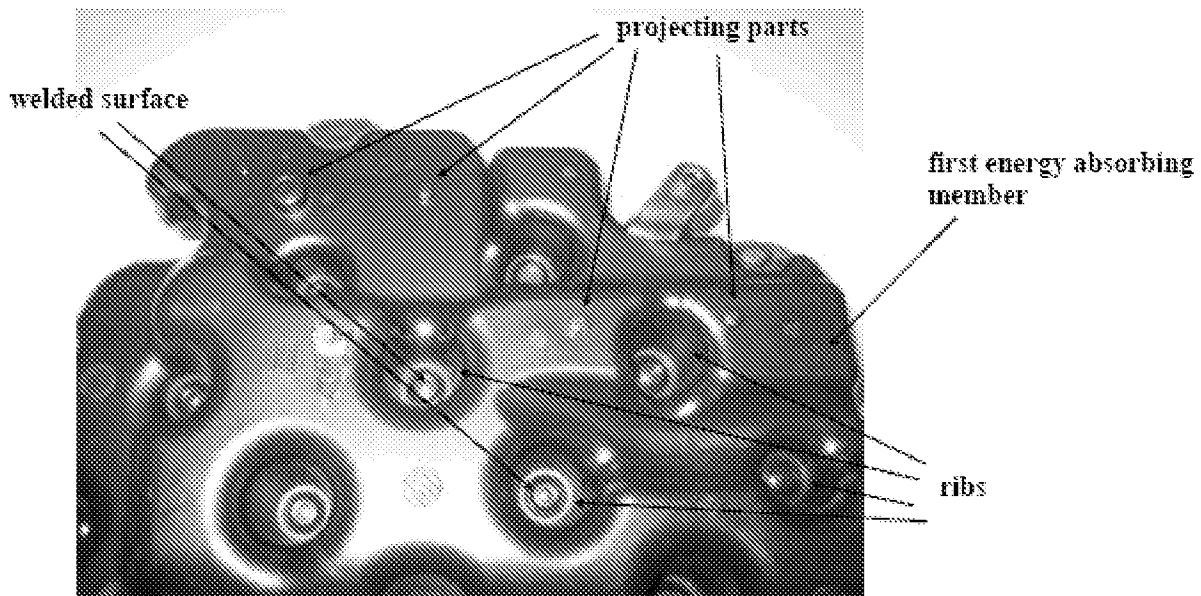
A useful presentation for the proper standard for determining obviousness under 35 USC §103(a) can be illustrated as follows:

1. Determining the scope and contents of the prior art;
2. Ascertaining the differences between the prior art and the claims at issue;
3. Resolving the level of ordinary skill in the pertinent art; and
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

The Office rejected claims 1-22 as unpatentable over US Patent 3,933,387 in light of Japanese Patent No. JP 10-250513 under 35 U.S.C. 103(a). The applicant has carefully reviewed the Office's rejection and the cited references and respectfully disagrees. Notwithstanding the Office' repeated allegations to the contrary, Figure 2 of the '387 reference simply does not

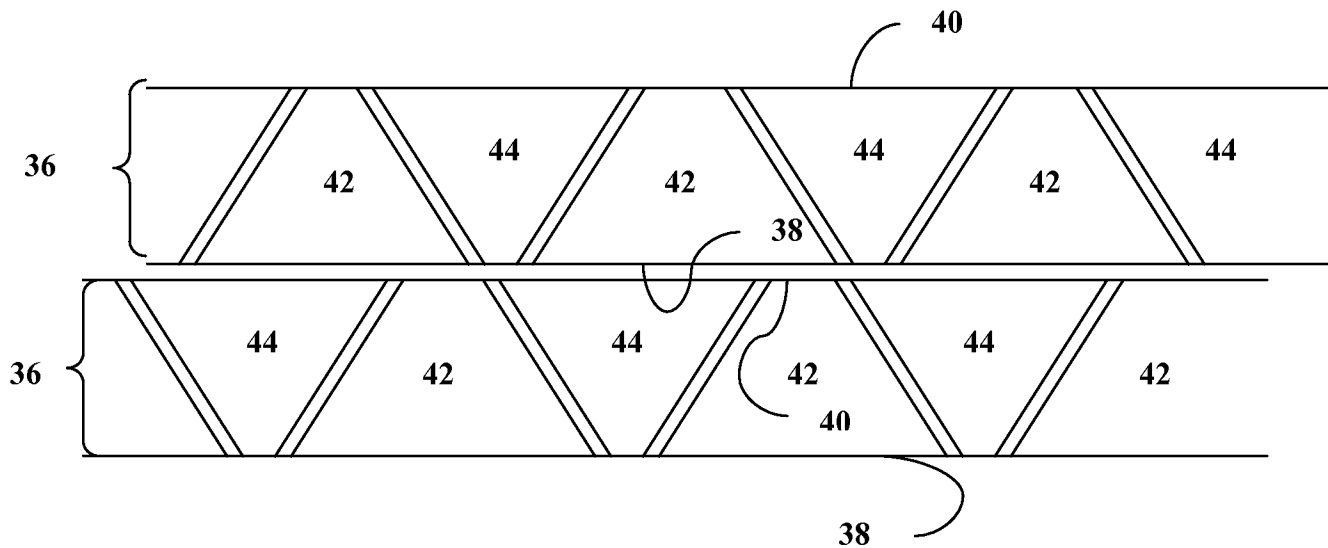
illustrate such as that claimed in claim 1. Careful review of the '387 reference by the Office will highlight the contrast between the claimed invention and the '387 reference. Figure 2 of the '387 reference, relied upon by the Office in paragraph 2 of its Office Action, shows a cross section of a bumper formed by the combination of the egg carton like structures shown in Figures 3 and 5. The layers seen in Figure 2 are the interlacing of two layers of the egg carton structures such that the points of the egg cartons bypass each other, meeting at point 9 illustrated in Figures 3 and 4. The pyramidal egg carton points 42, 44 do not project out from the layer. They are disposed entirely between the two sheets of the layer, 38, 40. Egg carton points from the two opposing structures that make up a layer do not meet, just making contact at the corners (Col. 3, ll. 36-39), but are instead disposed next to each other, being bonded to the space between the opposing points as illustrated in Figure 7 and articulated in Col. 3, ll. 40-42 and Col. 4, ll. 21-24, consequently, no weld may be disposed between the opposing points joining them together. Layers are sandwiched together, without benefit of "projecting parts" of any kind to align and connect the layers, and rely, as articulated in Col. 3 ll. 45, on heat sealing or other fastening means. No disclosure is made of any interlock between in the layers, nor is any interlock within the layers, just heat welds.

To further illustrate the distinction between the claimed invention the applicant provides the following pictures of impact absorbing members which form parts of a system configured in accord with one embodiment of the claimed invention.



The applicant respectfully notes that the projecting parts are distinct structures, not coupled or related to the ribs. They are positioned to be accepted by receiving parts to align the impact absorbing members in an impact absorbing alignment. No such projecting parts are disclosed by the cited '387 reference.

A enlarged diagram of the '387 reference is shown below showing two layers of the structure shown in Figure 2 with further detail provided by reference numbers of Figures 3 and 4.



Nowhere in this configuration is there any component that protrudes from the layer 36. Only layer 36 is made up of two opposing walls with structures 44, 42 separating them. These structures, do not, however, constitute ribs which meet at a weld, as they contact each other only at the corners, where no weld is disposed. The applicant likewise respectfully submits that the pyramids 44, 42 do not serve as projecting parts of the layer 36, as they are internal to layer 36, and do not project there from. In paragraph 3 of the present Office Action, the Office states “it is unclear why the Applicant states that Salloum et al. [the ‘387 reference] do not disclose the use of a projecting part.” The applicant is equally puzzled by the Office’s insistence that such an element exists, where no such element is illustrated or disclosed, other than the aforementioned pyramids 42, 44 which manifestly do not project from the layer 36. The applicant suggests that the further review of the cited reference will resolve the confusion in favor of the patentability of the claimed invention.

JP-10250513 is used by the Office as evidence that blow molding is known to those skilled in the relevant art. This disclosure does not supply the place of those deficiencies articulated above.

As the cited reference, either taken individually, or in combination fail to disclose those aspects of the claimed invention articulated above, the applicant asserts that the claim 1 is patentably distinct from the cited references. As the remaining claims in the application are dependant from

claim 1, the applicant respectfully submits that they too are patentably distinct at least for those reasons stated above. The Applicant respectfully requests that the Office withdraw its rejection of these claims and issue a speedy Notice of Allowance.

The Applicant respectfully requests that the Office contact the undersigned attorney to resolve any remaining confusion in this matter.

The Office has made this Office Action Final. The applicant has not introduced new issues in this response. The applicant has amended claim 1 only to clarify those issues articulated in the previous response, and to place the claims in condition for allowance. Likewise, no new matter has been added. The applicant therefore requests that the amendment be entered and that the Office review the arguments contained herein.

Applicant believes the above amendments and remarks to be fully responsive to the Office Action, thereby placing this application in condition for allowance. Applicant requests speedy reconsideration, and further requests that Office contact its attorney by telephone, facsimile, or email for quickest resolution, if there are any remaining issues.

Respectfully submitted,

/Andrew P. Cernota, Reg. No. 52,711/

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